

REMARKS

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all of the certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving an initialed copy of the form PTO-1449 that was filed on 9 December 2003.

Claims 1 – 12 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 1 – 8, 11 and 12 were rejected under 35 USC 102(a) and/or (e) as being anticipated by U.S. Patent Publication No. US-2004/0119633, Oswald et al. (“Oswald”). The rejection is respectfully traversed for reasons including the following, which are provided by way of example.

As described in the application, one or more aspects of the invention is directed to solving problems encountered when judging, for example, whether a detected target objective is an automotive vehicle and/or discriminating between a human and non-human objective. (Specification page 3, lines 2 - 20.)

According to various independent claims, e.g., claim 1, the claims recite in combination, for example, “transmitting and receiving radio waves...;” “obtaining automotive vehicle judgment data base on a receiving intensity of reflected radio waves from said target objective, as a value expressed in terms of a radar cross section equivalent to said receiving intensity;” and “making a judgment as to whether said target objective is an automotive vehicle or not based on said automotive vehicle judgment data.” (E.g., claim 1; see also claims 3 and 11.) Thereby, an automotive vehicle can be detected and discriminated from other objectives.

According to the other independent claims, e.g., claim 2, the claims recite in combination, for example, “transmitting and receiving radio waves for detecting a target objective based on radio waves reflected from said target objective, said radio waves being modulated so as to have an ascending section in which the frequency gradually increases and a descending section in which the frequency gradually decreases;” “obtaining human objective judgment data based on a receiving intensity of reflected radio waves from said target objective obtained in each of said ascending section and said descending section, as a value representing temporal dispersion in the receiving intensity difference between said ascending section and said descending section;” and “making a judgment as to whether said target objective is a human objective or not based on said human objective judgment data.” (E.g., claim 2; see also claims 5 and 12.) Accordingly, a human objective can be detected and discriminated from other objectives based on the reflected radio waves in each of the ascending and descending sections.

Without conceding that Oswald discloses any feature of the present invention, Oswald is directed to methods and apparatus for obtaining positional information about one or more objects. According to one aspect of Oswald, e.g., paragraph [0067], a signal is transmitted into a detection field, and a signal reflected from an object in the detection field is detected. The spatial length of the transmitted signal is approximately the same as a dimension of the smallest objects that the apparatus is intended to resolve. A correlation is achieved between signals received at different receiving elements. According to another aspect of Oswald, e.g., paragraph [0115], an apparatus obtains positional information relating to an object. The apparatus is operative to determine a radar cross-section of an object. According to yet another aspect of Oswald, e.g., paragraph [0116], an apparatus particular for use on a vehicle obtains positional information relating to an object. More particularly, radiation is transmitted into a detection field, a receiving elements receives radiation reflected from an object in the detection field, and a

processing stage analyses signals from the receiving element to derive qualitative information relating to the object. Thereby, when a signal having a predetermined wavelength is transmitted into a detection field, positional information about the smallest objects determined by the predetermined wavelength and other objects larger than the smallest objects in the detection field can be obtained based on a radar cross-section of each object indicated by a received signal.

The office action asserts that Oswald discloses the invention as claimed. To the contrary, Oswald fails to teach or suggest the invention, as presently claimed, when the claims are considered as a whole. Oswald fails to teach or suggest, for example, “making a judgment as to whether said target objective is an automotive vehicle or not.” (E.g., claim 1; see also claims 3 and 11.) Also, Oswald fails to teach or suggest, for example, “making a judgment as to whether said target objective is a human objective or not.” (E.g., claim 2; see also claims 5 and 12.) To the contrary, an apparatus or method according to Oswald cannot discriminate a vehicle or a human from other objects.

Moreover, Oswald fails to teach or suggest, for example, “detecting a target object based on radio waves ... said radio waves being modulated so as to have an ascending section in which the frequency gradually increases and a descending section in which the frequency gradually decreases.” (See, e.g., claim 2; see also claims 5 and 12.) Oswald completely lacks any such teaching or suggestion.

Oswald fails to teach or suggest, for example, these elements recited in independent claims 1, 2, 3, 5, 11 and 12. It is respectfully submitted therefore that claims 1, 2, 3, 5, 11 and 12 are patentable over Oswald.

For at least these reasons, the combination of features recited in independent claims 1, 2, 3, 5, 11, and 12, when interpreted as a whole, is submitted to patentably distinguish over the prior art. In addition, Oswald clearly fails to show other recited elements as well.

With respect to the rejected dependent claims, applicant respectfully submits that these claims are allowable not only by virtue of their dependency from independent claims 3, or 5, but also because of additional features they recite in combination.

New claims 13 – 18 have been added to further define the invention, and are believed to be patentable for reasons including these set out above. Support for the amendment is located in the specification, for example on page 14, line 12 – page 15 line 5.

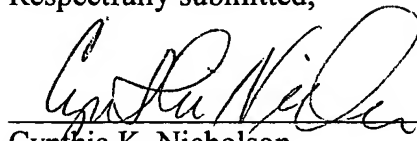
The applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. The applicants do not concede that the cited prior art shows any element recited in the claims. However, the applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

The applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples applicants have described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, the applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cynthia K. Nicholson', written over a horizontal line.

Cynthia K. Nicholson

Reg. No. 36,880

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400